IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1331 of 2007()

SC.263/2006 of I ADDL. SESSIONS COURT, PALAKKAD
CRIME NO.194/04 OF HEMAMBIKA NAGAR POLICE STATION

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PETITIONER: ACCUSED

SIVAN, S/O. CHAMY,
MULLAKKAL HOUSE, PAITANKUNNU, PALAKKAD.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1331 OF 2007

Dated this the 24th day of May, 2007

ORDER

The petitioner faces the allegations under Sec.55 of the Kerala Abkari Act. The petitioner has come to this Court with the grievance that the charge raised under Sec.55 of the Abkari Act is not justified and the charge is liable to be framed only for lesser offence punishable under the Kerala Abkari Act.

2. It is relevant to note that even according to the petitioner, the charge is not liable to be quashed and the only contention is that on the allegations raised, a lesser charge alone is sustainable. I will assume that the contention is worthy of consideration. But I am certainly of opinion that such consideration need not be undertaken at this stage invoking the extraordinary inherent jurisdiction available to this Court under Sec.482 of the Cr.P.C. That is a contention

which the petitioner must raise before the court when it considers the question of committal/framing of charge. Appropriate orders must be passed by the court concerned. I do not, in these circumstances, find any justification in the prayer for invoking the powers under Sec.482 of the Cr.P.C.

3. This Crl.M.C. is, in these circumstances, dismissed; but with the specific observation that the petitioner's right to raise such contention before the committal court/the court considering the framing of charge shall remain unfettered by the disposal of this Crl.M.C.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge